

SENATE BILL 2296

By Beavers

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3; Title 39, Chapter 13 and Title 40, Chapter 11, Part 1, relative to violations of ex parte orders of protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-3-611(a), is amended by deleting the words "an order of protection" wherever such words sequentially appear and by substituting instead the following:

an order of protection or ex parte order of protection

SECTION 2. Tennessee Code Annotated, Section 36-3-611(a), is further amended by deleting the words "an order for protection" wherever such words sequentially appear and by substituting instead the following:

an order of protection or ex parte order of protection

SECTION 3. Tennessee Code Annotated, Section 36-3-611(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) No ex parte order of protection can be enforced by arrest under this section until the respondent has been served with the ex parte order of protection or otherwise has acquired actual knowledge of the ex parte order of protection.

SECTION 4. Tennessee Code Annotated, Section 39-13-113, is amended by deleting the words "this section" wherever such words sequentially appear in subsections (b) through (g) and by substituting instead the following:

subsection (a)

SECTION 5. Tennessee Code Annotated, Section 39-13-113, is amended by adding the following language as a new, appropriately designated subsection:

(h)

(1) A person who knowingly violates an ex parte order of protection, issued pursuant to title 36, chapter 3, part 6, commits the offense of violation of an ex parte order of protection.

(2) In order to constitute a violation of subdivision (1), the person must have been served with the ex parte order of protection or must have otherwise acquired actual knowledge of the ex parte order of protection.

(3) A person violating subdivision (1) may be arrested with or without a warrant as provided in § 36-3-611, and the arrest shall be conducted in accordance with the requirements of § 36-3-619.

(4) A person who is arrested for violation of subdivision (1) shall be considered within the provisions of § 40-11-150(a), and subject to the twelve-hour hold period authorized by § 40-11-150(h).

(5) After a person has been arrested for a violation of subdivision (1), the arresting officer shall inform the victim that the person has been arrested and that the person may be eligible to post bond for the offense and be released until the date of trial for the offense.

(6) Neither an arrest nor the issuance of a warrant or capias for the offense of violation of subdivision (1) shall in any way affect the validity or enforceability of any order of protection or restraining order or ex parte order of protection.

(7) Violation of subdivision (1) is a Class C misdemeanor and any sentence imposed shall be consecutive to any other offense that is based, in whole or in part, on the same factual allegations, unless the sentencing judge or magistrate specifically makes the sentences for any such offenses arising out of the same facts to be concurrent with one another.

SECTION 6. This act shall take effect July 1, 2007, the public welfare requiring it.